

Federal Communications Commission

§ 76.905

under rates in effect on April 5, 1993, for a period of 120 days.

(b) The average monthly subscriber bill shall be calculated by determining for a monthly billing cycle the sum of all billed monthly charges for all cable services subject to regulation under section 623 of the Communications Act and dividing that sum by the number of subscribers receiving any of those services. The average monthly subscriber bill determined under rates in effect on April 5, 1993, shall be calculated based on customer charges for the most recent monthly billing cycle ending prior to April 5, 1993.

§ 76.901 Definitions.

(a) *Basic service.* The basic service tier shall, at a minimum, include all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable system) any public, educational, and governmental programming required by the franchise to be carried on the basic tier, and any additional video programming signals a service added to the basic tier by the cable operator.

(b) *Cable programming service.* Cable programming service includes any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

(1) Video programming carried on the basic service tier as defined in this section;

(2) Video programming offered on a pay-per-channel or pay-per-program basis; or

(3) A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:

(i) Consists of commonly-identified video programming; and

(ii) Is not bundled with any regulated tier of service.

(c) *Small System.* A small system is a cable television system that serves 15,000 or fewer subscribers. The service area of a small system shall be deter-

mined by the number of subscribers that are served by the system's principal headend, including any other headends or microwave receive sites that are technically integrated to the principal headend.

(d) *New Product Tier.* A new product tier ("NPT") is a cable programming service tier meeting the conditions set forth in § 76.987.

(e) *Small cable company.* A small cable company is a cable television operator that serves a total of 400,000 or fewer subscribers over one or more cable systems.

(f) *Small cable operator.* A small cable operator is an operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000. For purposes of this definition, an operator shall be deemed affiliated with another entity if that entity holds a 20 percent or greater equity interest (not including truly passive investment) in the operator or exercises de jure or de facto control over the operator.

NOTE 1 TO PARAGRAPH (f): Using the most reliable sources publicly available, the Commission periodically will determine and give public notice of the subscriber count that will serve as the 1 percent threshold until a new number is calculated.

NOTE 2 TO PARAGRAPH (f): For a discussion of passive interests with respect to small cable operators, see Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, Report and Order in CS Docket No. 96-85, FCC 99-57 (released March 29, 1999).

NOTE 3 TO PARAGRAPH (f): If two or more entities unaffiliated with each other each hold an equity interest in the small cable operator, the equity interests of the unaffiliated entities will not be aggregated with each other for the purpose of determining whether an entity meets or passes the 20 percent affiliation threshold.

[58 FR 29753, May 21, 1993, as amended at 59 FR 62623, Dec. 6, 1994; 60 FR 35864, July 12, 1995; 64 FR 35950, July 2, 1999]

§ 76.905 Standards for identification of cable systems subject to effective competition.

(a) Only the rates of cable systems that are not subject to effective competition may be regulated.